

Senate File 2333

S-5175

1 Amend Senate File 2333 as follows:

2 1. Page 1, after line 34 by inserting:

3 <Sec. _____. Section 235E.2, subsection 1, paragraph
4 a, Code Supplement 2009, is amended to read as follows:

5 a. The department shall receive and evaluate
6 reports of dependent adult abuse in facilities and
7 programs. The department shall inform the department
8 of human services of such evaluations and dispositions
9 ~~for inclusion in~~ and those individuals who should be
10 placed on the central registry for dependent adult
11 abuse information pursuant to section ~~235B.5.~~ 235E.7.
12 If the department believes the situation involves
13 an immediate danger to the public health, safety,
14 or welfare requiring immediate agency action to
15 seek emergency placement on the central registry,
16 the department may utilize emergency adjudicative
17 proceedings pursuant to section 17A.18A.

18 Sec. _____. Section 235E.2, subsection 10, Code
19 Supplement 2009, is amended to read as follows:

20 10. The department shall adopt rules which require
21 facilities and programs to separate an alleged
22 dependent adult abuser from a victim following an
23 allegation of perpetration of dependent adult abuse
24 and prior to the completion of an investigation of
25 the allegation. Independent of the department's
26 investigation, the facility or program employing
27 the alleged dependent adult abuser shall conduct an
28 investigation of the alleged dependent adult abuse and
29 determine, what, if any, employment action should be
30 taken including but not limited to placing the alleged
31 dependent adult abuser on administrative leave or
32 reassigning or terminating the alleged dependent adult
33 abuser as a result of the department's investigation.
34 If the facility or program terminates the alleged
35 dependent adult abuser as a result of the department's
36 investigation, the alleged dependent adult abuser shall
37 disclose such termination to any prospective facility
38 or program employer.>

39 2. Page 2, by striking lines 16 through 21 and
40 inserting <dependent adult abuse. Prior to the
41 interview, the department shall provide written
42 notification to the person under investigation
43 for dependent adult abuse that the person is under
44 investigation for dependent adult abuse, the
45 fact situation and the nature of the abuse being
46 investigated, the possible civil consequences of
47 founded abuse, the requirement that the department
48 forward a report to law enforcement if the department's
49 investigation reveals a potential criminal offense,
50 that the person has the right to retain legal counsel

1 at the person's expense and may choose to have legal
2 counsel, union representation, or any other desired
3 representative employed by the facility present during
4 the interview, and the fact that the person has the
5 right to decline to be interviewed or to terminate an
6 interview at any time. The person under investigation
7 shall inform the department of the representatives
8 desired to be present during the interview and not
9 unreasonably delay the interview to organize their
10 representatives' presence at the interview. An
11 inspector may take or cause>

12 3. By striking page 2, line 28, through page 3,
13 line 30, and inserting:

14 Sec. _____. NEW SECTION. 235E.6 Dependent adult
15 abuse finding — notification to employer and employee.

16 Upon a finding of founded dependent adult abuse
17 by a caretaker, the department shall provide written
18 notification of the department's findings to the
19 caretaker and the caretaker's employer. In addition,
20 the written notification shall detail the consequences
21 of the findings and placement on the dependent adult
22 abuse registry, the caretaker's appeal rights, and
23 include a separate appeal request form. The written
24 appeal request form shall clearly set forth that the
25 caretaker shall not be placed on the dependent adult
26 abuse registry until final agency action is taken if an
27 appeal is filed within fifteen days.

28 Sec. _____. NEW SECTION. 235E.7 Appeal process —
29 dependent adult abuse.

30 1. Upon the department's finding of dependent adult
31 abuse, the caretaker shall file an appeal request with
32 the department within fifteen days of receiving the
33 notification of the finding of abuse. If a request
34 for an appeal is filed within fifteen days of the
35 notification of the finding, the department shall not
36 place the caretaker on the registry until final agency
37 action is taken. For a request for an appeal filed
38 within fifteen days of the notification of the finding,
39 the contested case hearing shall be held within sixty
40 days of the request. The caretaker may extend the
41 hearing timeframe by thirty days one time. Additional
42 requests for an extension must be agreed upon by
43 all parties or for good cause. The department shall
44 issue a determination of final agency action within
45 forty-five days of the contested case hearing. Upon
46 final agency action, further appeal rights shall be
47 governed by chapter 17A.

48 2. If a caretaker fails to request an appeal within
49 fifteen days, the caretaker shall have an additional
50 forty-five days to file an appeal pursuant to chapter

1 17A. However, the caretaker's name shall be placed on
2 the registry pending the outcome of the appeal.

3 3. If the caretaker requests an appeal within
4 fifteen days, the caretaker may waive the expedited
5 hearing under subsection 1 to proceed under chapter
6 17A, but the caretaker's name shall be placed on the
7 registry pending the outcome of the appeal.

8 Sec. ____ . STUDY. The legislative council is
9 requested to establish an interim study committee to
10 evaluate due process requirements relating to child
11 abuse and dependent adult abuse under Code chapters
12 235A and 235B. The committee shall issue a report of
13 its recommendations to the general assembly by January
14 15, 2011.>

15 4. By renumbering as necessary.

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